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10
11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF CALIFORNIA

13
14 FEDERAL TRADE COMMISSION,

15 Plaintiff,

16 v.

17 BROADWAY GLOBAL MASTER INC., a
corporation, also d/b/a BGM,

18 IN-ARABIA SOLUTIONS INC., a
19 corporation, and

20 KIRIT PATEL, individually and as an officer
of BROADWAY GLOBAL MASTER INC.,
21 and IN-ARABIA INC.

22 Defendants.
23

Case No.

**COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF**

24
25 Plaintiff, the Federal Trade Commission ("FTC"), for its Complaint alleges:

26 1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade
27 Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and Section 814 of the Fair Debt
28 Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692l, to obtain temporary, preliminary, and

1 permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of
2 monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants' acts or
3 practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FDCPA, 15
4 U.S.C. § 1692 *et seq.*

5 **JURISDICTION AND VENUE**

6 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a),
7 and 1345, and 15 U.S.C. §§ 45(a), 53(b), 57b, and 1692l.

8 3. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C.
9 § 53(b).

10 **PLAINTIFF**

11 4. The FTC is an independent agency of the United States Government created by
12 statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a),
13 which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also
14 enforces the FDCPA, 15 U.S.C. § 1692 *et seq.*, which prohibits deceptive, abusive, and unfair
15 collection practices.

16 5. The FTC is authorized to initiate federal district court proceedings, by its own
17 attorneys, to enjoin violations of the FTC Act and the FDCPA, and to secure such equitable
18 relief as may be appropriate in each case, including rescission or reformation of contracts,
19 restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C.
20 §§ 53(b), 56(a)(2)(A), 56(a)(2)(B), 57b, and 1692l(a). Section 814 of the FDCPA further
21 authorizes the FTC to use all of the functions and powers of the Commission under the FTC Act
22 to enforce compliance by any person with the FDCPA, including the power to enforce the
23 provisions of the FDCPA in the same manner as if the violations were violations of an FTC trade
24 regulation rule. 15 U.S.C. § 1692l.

25 **DEFENDANTS**

26 6. Defendant Broadway Global Master Inc. ("BGM") is a closely-held California
27 corporation with its principal place of business at 1570 Eastlake Circle, Tracy, California, 95304.
28 BGM transacts or has transacted business in this district and throughout the United States.

DEFENDANTS' DECEPTIVE AND ABUSIVE BUSINESS ACTIVITIES

1
2 11. Since at least July 2010, and continuing thereafter, Defendants have engaged in a
3 scheme to defraud consumers through the collection and processing of payments for debts that
4 consumers do not actually owe, or that are never applied to consumers' real debts. Defendants
5 use callers in India to contact consumers and make a series of misrepresentations and threats to
6 convince the consumers to pay the purported debts. Payments made by consumers then are
7 processed through merchant accounts controlled by Defendants before being deposited into
8 Defendants' bank accounts. The scheme targets consumers who previously applied for or
9 received loans from payday loan companies.

10 12. Defendants' callers contact consumers and tell them that they are delinquent on a
11 payday loan or another debt.

12 13. Defendants' callers often claim that they are law enforcement officers or that they
13 are affiliated with a federal, state, or local government agency.

14 14. Defendants' callers threaten consumers that they will face arrest or legal action if
15 they fail to pay the alleged debt immediately.

16 15. Defendants' callers also threaten to contact third parties about the consumers'
17 alleged debt, including family members and employers.

18 16. Defendants' callers possess the consumers' private personal information, such as
19 their Social Security Numbers or bank account numbers, and recite such information, convincing
20 consumers that the calls are legitimate collection efforts and that consumers must pay the
21 purportedly delinquent debts.

22 17. Defendants' callers repeatedly contact these consumers on their home, cell, and
23 work telephones. Defendants' callers frequently use abusive or profane language during these
24 telephone calls, all as a means of intimidating and harassing consumers to convince them to pay
25 the alleged debts.

26 18. Many consumers pay the alleged debt that Defendants purport to be collecting
27 because they are afraid of the threatened repercussions of failing to pay or because they want to

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1 stop the harassment. Generally, consumers make these payments using a credit card, debit card,
2 or other payment card.

3 19. Payments made by consumers are deposited into one of several of Defendants'
4 merchant processing accounts that Defendants have established to process consumers' credit,
5 debit, and payment card payments. The payments appear on consumers' bank or card statements
6 with the billing descriptor "BGM," "Broadway Global Master," "Broadway Global," or a similar
7 name, typically along with a phone number associated with BGM. Payments processed through
8 Defendants' merchant processing accounts are then transferred into Defendants' operating bank
9 accounts.

10 20. Since July 2010, Defendants have collected and processed millions of dollars in
11 payments for debts that consumers do not owe and that Defendants have no authority to collect.

12 21. Many consumers have attempted to obtain refunds from Defendants by calling the
13 phone number associated with BGM on the billing descriptor. In many instances, when
14 consumers have called this number, no one answered the phone, they were disconnected, or,
15 after notifying the person who answered the phone that they were calling to request a refund,
16 they were placed on hold for indefinite periods.

17 22. Many consumers have filed complaints with the Better Business Bureau, their
18 bank, or their credit card or payment card company, in an attempt to have their payment charged
19 back, reversed, or refunded.

20 (a) Many of these complaints indicate that the consumer did not owe the
21 money that Defendants' callers sought to collect.

22 (b) Many of these complaints indicate that the money that the consumer had
23 paid to Defendants was not applied to the debt they did owe, as the callers
24 claimed it would be.

25 (c) Many of these complaints attach correspondence in which the payday
26 lender on whose behalf Defendants' callers claim the debt was being
27 collected denied having received any payment or having any relationship
28 with Defendants.

1 (d) Many of these complaints report that Defendants' callers claimed to be
2 law enforcement officers.

3 (e) Many of these complaints report that Defendants' callers threatened to
4 have the consumer arrested or to file legal actions against the consumer if
5 the consumer did not pay the alleged debt immediately.

6 (f) Many of these complaints indicate that Defendants called the consumer
7 repeatedly.

8 (g) Many of these complaints indicate that Defendants' callers were
9 threatening to call, or actually calling, the consumer's family or place of
10 employment.

11 (h) Many of these complaints refer to third parties who had characterized
12 Defendants' practices as a "scam."

13 23. In many instances, Defendants received and responded to the complaints that
14 consumers filed with the Better Business Bureau, their bank, or their credit card or payment card
15 company. Individual Defendant Patel responded on behalf of himself and the Corporate
16 Defendants.

17 24. Based on the information in Paragraphs 21 through 23, Defendants knew or should
18 have known that the payments they processed were for debts that consumers did not owe or that
19 the payments they processed were not applied to debts consumers actually owed.

20 25. Despite their knowledge of their callers' abusive practices, Defendants continue to
21 process payments made by consumers in response to these practices.

22 **VIOLATIONS OF THE FTC ACT**

23 26. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or deceptive acts
24 or practices in or affecting commerce."

25 27. Misrepresentations or deceptive omissions of material fact constitute deceptive
26 acts or practices prohibited by Section 5(a) of the FTC Act.

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COUNT ONE

Deceptive Acts or Practices in Violation of the FTC Act

28. In numerous instances, in connection with the collection of alleged debts, Defendants represent, directly or indirectly, expressly or by implication, that:

(a) The consumer is delinquent on a payday loan that Defendants have the authority to collect;

(b) Defendants are a law enforcement authority or that they are otherwise affiliated with a government agency;

(c) The consumer will be arrested or imprisoned for failing to pay the Defendants; and

(d) Defendants can or will take formal legal action against a consumer who fails to pay, such as filing suit.

29. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 28 of this Complaint:

(a) The consumer is not delinquent on a payday loan that Defendants have the authority to collect;

(b) Defendants are not a law enforcement authority and they are not otherwise affiliated with a government agency;

(c) The consumer will not be arrested or imprisoned for failing to pay Defendants; and

(d) Defendants cannot or will not take formal legal action against a consumer who fails to pay, such as filing suit.

30. Therefore, Defendants' representations as set forth in Paragraph 28 of this Complaint are false or misleading and constitute deceptive acts and practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE FDCPA

31. In 1977, Congress passed the FDCPA, 15 U.S.C. § 1692 *et seq.*, which became effective on March 20, 1978, and has been in force since that date. Section 814 of the FDCPA,

1 15 U.S.C. § 1692l, provides that a violation of the FDCPA shall be deemed an unfair or deceptive
2 act or practice in violation of the FTC Act.

3 32. Defendants are “debt collectors” as defined by Section 803(6) of the FDCPA, 15
4 U.S.C. § 1692a(6).

5 33. A “consumer,” as defined in Section 803(3) of the FDCPA, 15 U.S.C. § 1692a(3),
6 “means any natural person obligated or allegedly obligated to pay any debt.”

7 34. A “debt,” as defined in Section 803(5) of the FDCPA, 15 U.S.C. § 1692a(5),
8 “means any obligation or alleged obligation of a consumer to pay money arising out of a
9 transaction in which the money, property, insurance or services which are the subject of the
10 transaction are primarily for personal, family, or household purposes, whether or not such
11 obligation has been reduced to judgment.”

12 **COUNT TWO**

13 *Deceptive Acts or Practices in Violation of the FDCPA*

14 35. In numerous instances, in connection with the collection of alleged debts,
15 Defendants use false, deceptive, or misleading representations or means, in violation of Section
16 807 of the FDCPA, 15 U.S.C. § 1692e, including, but not limited to:

- 17 (a) Falsely representing the character, amount, or legal status of any debt, in
18 violation of Section 807(2)(A) of the FDCPA, 15 U.S.C. § 1692e(2)(A);
19 (b) Falsely representing or implying that Defendants are affiliated with the
20 United States or a State, in violation of Section 807(1) of the FDCPA, 15
21 U.S.C. § 1692e(1);
22 (c) Falsely representing or implying that nonpayment of a debt will result in
23 the arrest or imprisonment of a person, when such action is not lawful or
24 when the Defendants have no intention of taking such action, in violation
25 of Section 807(4) of the FDCPA, 15 U.S.C. § 1692e(4);
26 (d) Threatening to take action that is not lawful or the Defendants do not
27 intend to take, such as filing a lawsuit, in violation of Section 807(5) of the
28 FDCPA, 15 U.S.C. § 1692e(5); and

- 1 (e) Using false representations or deceptive means to collect or attempt to
2 collect a debt or to obtain information concerning a consumer, in violation
3 of Section 807(10) of the FDCPA, 15 U.S.C. § 1692e(10).

4 **COUNT THREE**

5 *Abusive Acts or Practices in Violation of the FDCPA*

6 36. In numerous instances, in connection with the collection of alleged debts,
7 Defendants engage in conduct the natural consequence of which is to harass, oppress, or abuse the
8 caller, in violation of FDCPA Section 806, 15 U.S.C. §1692d, including, but not limited to, by:

- 9 (a) Using obscene or profane language or language the natural consequence of
10 which is to abuse the hearer, in violation of FDCPA Section 806(2), 15
11 U.S.C. §1692d(2); and
12 (b) Causing a telephone to ring or engaging a person in telephone conversation
13 repeatedly or continuously with intent to annoy, abuse, or harass a person
14 at the called number, in violation of FDCPA Section 806(5), 15 U.S.C.
15 §1692d(5).

16 **CONSUMER INJURY**

17 37. Consumers have suffered and will continue to suffer substantial injury as a result
18 of Defendants' violations of the FTC Act and the FDCPA. In addition, Defendants have been
19 unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this
20 Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm
21 the public interest.

22 **THIS COURT'S POWER TO GRANT RELIEF**

23 38. Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b and Section
24 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), empower this Court to grant injunctive and such
25 other relief as the Court may deem appropriate to halt and redress violations of any provision of
26 law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award
27 ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies

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1 paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any
2 provision of law enforced by the FTC.

3 **PRAYER FOR RELIEF**

4 Wherefore, Plaintiff FTC, pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C.
5 §§ 53(b) and 57b, and Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), and the Court's own
6 equitable powers, requests that the Court:

7 A. Award Plaintiff such preliminary injunctive and ancillary relief as may be
8 necessary to avert the likelihood of consumer injury during the pendency of this action and to
9 preserve the possibility of effective final relief, including but not limited to, temporary and
10 preliminary injunctions and an order freezing assets;

11 B. Enter a permanent injunction to prevent future violations of the FTC Act and
12 FDCPA by Defendants;

13 C. Award such relief as the Court finds necessary to redress injury to consumers
14 resulting from Defendants' violations of the FTC Act and FDCPA, including but not limited to,
15 rescission or reformation of contracts, restitution, the refund of monies paid, and the
16 disgorgement of ill-gotten monies; and

17 D. Award Plaintiff the costs of bringing this action, as well as such other and
18 additional relief as the Court may determine to be just and proper.

19
20 Dated: April 3, 2012

Respectfully submitted,

21 WILLARD K. TOM
22 General Counsel

23 /s/

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